



State of Wisconsin  
2005 - 2006 LEGISLATURE

3  
LRB-0352/2  
CMH:wlj:ra  
rmt

POA - Budget

Ziegler, BB0219 - Repeal QED  
**2005 BILL**

FOR 2005-07 BUDGET....

SOON

reducing cost

- 1 AN ACT ~~...~~ relating to: qualified economic offers under the Municipal  
2 Employment Relations Act.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT ✓**

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district professional employees if WERC determines, subsequent to an investigation, that

**BILL**

the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Current law provides that in reaching a decision, the arbitrator or arbitration panel must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator or arbitration panel is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

This bill eliminates the authorization for the arbitrator or arbitration panel to give any weight to economic conditions in the jurisdiction of the employer or to any state law or directive that places expenditure or revenue limitations on an employer and, instead, requires that the arbitrator or arbitration panel simply considers these as factors.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**BILL**

1           111.70 (1) (b) “Collective bargaining unit” means ~~a the unit consisting of~~  
2           ~~municipal employees who are school district professional employees or of municipal~~  
3           ~~employees who are not school district professional employees~~ that is determined by  
4           the commission to be appropriate for the purpose of collective bargaining.

5           **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

6           **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

7           **SECTION 4.** 111.70 (1) (nc) of the statutes is repealed.

8           **SECTION 5.** 111.70 (4) (cm) 5. of the statutes is amended to read:

9           111.70 (4) (cm) 5. ‘Voluntary impasse resolution procedures.’ In addition to the  
10          other impasse resolution procedures provided in this paragraph, a municipal  
11          employer and labor organization may at any time, as a permissive subject of  
12          bargaining, agree in writing to a dispute settlement procedure, including  
13          authorization for a strike by municipal employees or binding interest arbitration,  
14          which is acceptable to the parties for resolving an impasse over terms of any  
15          collective bargaining agreement under this subchapter. A copy of such agreement  
16          shall be filed by the parties with the commission. If the parties agree to any form of  
17          binding interest arbitration, the arbitrator shall give weight to the factors  
18          enumerated under ~~subds. 7., 7g. and subd. 7r.~~

19          **SECTION 6.** 111.70 (4) (cm) 5s. of the statutes is repealed.

20          **SECTION 7.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

21          111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one  
22          or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~  
23          ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable  
24          period of negotiation and after mediation by the commission under subd. 3. and other  
25          settlement procedures, if any, established by the parties have been exhausted, and

**BILL**

1 the parties are deadlocked with respect to any dispute between them over wages,  
2 hours and conditions of employment to be included in a new collective bargaining  
3 agreement, either party, or the parties jointly, may petition the commission, in  
4 writing, to initiate compulsory, final and binding arbitration, as provided in this  
5 paragraph. At the time the petition is filed, the petitioning party shall submit in  
6 writing to the other party and the commission its preliminary final offer containing  
7 its latest proposals on all issues in dispute. Within 14 calendar days after the date  
8 of that submission, the other party shall submit in writing its preliminary final offer  
9 on all disputed issues to the petitioning party and the commission. If a petition is  
10 filed jointly, both parties shall exchange their preliminary final offers in writing and  
11 submit copies to the commission at the time the petition is filed.

12 **SECTION 8.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

13 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the  
14 commission shall make an investigation, with or without a formal hearing, to  
15 determine whether arbitration should be commenced. If in determining whether an  
16 impasse exists the commission finds that the procedures set forth in this paragraph  
17 have not been complied with and such compliance would tend to result in a  
18 settlement, it may order such compliance before ordering arbitration. The validity  
19 of any arbitration award or collective bargaining agreement shall not be affected by  
20 failure to comply with such procedures. Prior to the close of the investigation each  
21 party shall submit in writing to the commission its single final offer containing its  
22 final proposals on all issues in dispute that are subject to interest arbitration under  
23 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~  
24 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall  
25 close the investigation based on the last written position of the party. ~~The municipal~~

**BILL**

1     ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~  
2     ~~of the investigation.~~ Such final offers may include only mandatory subjects of  
3     bargaining, except that a permissive subject of bargaining may be included by a  
4     party if the other party does not object and shall then be treated as a mandatory  
5     subject. No later than such time, the parties shall also submit to the commission a  
6     stipulation, in writing, with respect to all matters which are agreed upon for  
7     inclusion in the new or amended collective bargaining agreement. The commission,  
8     after receiving a report from its investigator and determining that arbitration should  
9     be commenced, shall issue an order requiring arbitration and immediately submit  
10    to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall  
11    alternately strike names until a single name is left, who shall be appointed as  
12    arbitrator. The petitioning party shall notify the commission in writing of the  
13    identity of the arbitrator selected. Upon receipt of such notice, the commission shall  
14    formally appoint the arbitrator and submit to him or her the final offers of the  
15    parties. The final offers shall be considered public documents and shall be available  
16    from the commission. In lieu of a single arbitrator and upon request of both parties,  
17    the commission shall appoint a tripartite arbitration panel consisting of one member  
18    selected by each of the parties and a neutral person designated by the commission  
19    who shall serve as a chairperson. An arbitration panel has the same powers and  
20    duties as provided in this section for any other appointed arbitrator, and all  
21    arbitration decisions by such panel shall be determined by majority vote. In lieu of  
22    selection of the arbitrator by the parties and upon request of both parties, the  
23    commission shall establish a procedure for randomly selecting names of arbitrators.  
24    Under the procedure, the commission shall submit a list of 7 arbitrators to the  
25    parties. Each party shall strike one name from the list. From the remaining 5

**BILL****SECTION 8**

1 names, the commission shall randomly appoint an arbitrator. Unless both parties  
2 to an arbitration proceeding otherwise agree in writing, every individual whose  
3 name is submitted by the commission for appointment as an arbitrator shall be a  
4 resident of this state at the time of submission and every individual who is  
5 designated as an arbitration panel chairperson shall be a resident of this state at the  
6 time of designation.

7 **SECTION 9.** 111.70 (4) (cm) 7. of the statutes is repealed.

8 **SECTION 10.** 111.70 (4) (cm) 7g. of the statutes is repealed.

9 **SECTION 11.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

10 111.70 (4) (cm) 7r. ~~‘Other factors~~ Factors considered.’ (intro.) In making any  
11 decision under the arbitration procedures authorized by this paragraph, the  
12 arbitrator or arbitration panel shall ~~also~~ give weight to the following factors:

13 **SECTION 12.** 111.70 (4) (cm) 7r. ie. of the statutes is created to read:

14 111.70 (4) (cm) 7r. ie. Any state law or directive lawfully issued by a state  
15 legislative or administrative officer, body, or agency that places limitations on  
16 expenditures that may be made or revenues that may be collected by a municipal  
17 employer.

18 **SECTION 13.** 111.70 (4) (cm) 7r. ir. of the statutes is created to read:

19 111.70 (4) (cm) 7r. ir. Economic conditions in the jurisdiction of the municipal  
20 employer.

21 **SECTION 14.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,  
22 renumbered 111.70 (4) (cm) 8m. and amended to read:

23 111.70 (4) (cm) 8m. ‘Term of agreement; reopening of negotiations.’ Except for  
24 the initial collective bargaining agreement between the parties ~~and~~, except as the  
25 parties otherwise agree, and except as provided in par. (cn), every collective

**BILL**

1 bargaining agreement covering municipal employees subject to this paragraph other  
2 ~~than school district professional employees shall be for a term of 2 years. No, but in~~  
3 no case may a collective bargaining agreement for any collective bargaining unit  
4 consisting of municipal employees ~~subject to this paragraph other than school~~  
5 ~~district professional employees shall~~ be for a term exceeding 3 years. e. No  
6 arbitration award may contain a provision for reopening of negotiations during the  
7 term of a collective bargaining agreement, unless both parties agree to such a  
8 provision. The requirement for agreement by both parties does not apply to a  
9 provision for reopening of negotiations with respect to any portion of an agreement  
10 that is declared invalid by a court or administrative agency or rendered invalid by  
11 the enactment of a law or promulgation of a federal regulation.

12 **SECTION 15.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

13 **SECTION 16.** 111.70 (4) (cm) 8p. of the statutes is repealed.

14 **SECTION 17.** 111.70 (4) (cm) 8s. of the statutes is repealed.

15 **SECTION 18.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

16 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective  
17 bargaining unit for the purpose of collective bargaining and shall whenever possible,  
18 unless otherwise required under this subchapter, avoid fragmentation by  
19 maintaining as few collective bargaining units as practicable in keeping with the size  
20 of the total municipal work force. In making such a determination, the commission  
21 may decide whether, in a particular case, the municipal employees in the same or  
22 several departments, divisions, institutions, crafts, professions, or other  
23 occupational groupings constitute a collective bargaining unit. Before making its  
24 determination, the commission may provide an opportunity for the municipal  
25 employees concerned to determine, by secret ballot, whether or not they desire to be

**BILL****SECTION 18**

1 established as a separate collective bargaining unit. ~~The commission shall not~~  
2 ~~decide, however, that any group of municipal employees constitutes an appropriate~~  
3 ~~collective bargaining unit if the group includes both municipal employees who are~~  
4 ~~school district professional employees and municipal employees who are not school~~  
5 ~~district professional employees.~~ The commission shall not decide, however, that any  
6 other group of municipal employees constitutes an appropriate collective bargaining  
7 unit if the group includes both professional employees and nonprofessional  
8 employees, unless a majority of the professional employees vote for inclusion in the  
9 unit. The commission shall not decide that any group of municipal employees  
10 constitutes an appropriate collective bargaining unit if the group includes both craft  
11 employees and noncraft employees unless a majority of the craft employees vote for  
12 inclusion in the unit. The commission shall place the professional employees who are  
13 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in  
14 a separate collective bargaining unit from a unit that includes any other professional  
15 employees whenever at least 30% of those professional employees request an election  
16 to be held to determine that issue and a majority of the professional employees at the  
17 charter school who cast votes in the election decide to be represented in a separate  
18 collective bargaining unit. Any vote taken under this subsection shall be by secret  
19 ballot.

20 **SECTION 19.** 118.245 of the statutes is repealed.

21 **SECTION 20.** 119.04 (1) of the statutes is amended to read:

22 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
23 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
24 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to  
25 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,

**BILL**

1 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245~~, 118.255, 118.258, 118.291,  
2 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13  
3 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are  
4 applicable to a 1st class city school district and board.

5 **SECTION 9315. Initial applicability; employment relations commission.**

6 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),  
7 (fm), and (nc) and (4) (cm) 5., 5s., 6. a. and am., 7., 7g., 7r. (intro.), ie., and ir., 8m. a.,  
8 b., and c., 8p., and 8s. and (d) 2. a. of the statutes first applies to petitions for  
9 arbitration that relate to collective bargaining agreements that cover periods  
10 beginning on or after July 1, 2005, and that are filed under section 111.70 (4) (cm)  
11 6. of the statutes, as affected by this act, on the effective date of this subsection.

12 (END)

## **Hanaman, Cathlene**

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**From:** Ziegler, Paul  
**Sent:** Wednesday, January 26, 2005 9:02 AM  
**To:** Hanaman, Cathlene  
**Subject:** QEO repeal draft - LRB0352

Cathlene -- As I mentioned in my voice mail to you moments ago, please modify the budget bill draft that repeals the QEO to retain the current law process whereby an arbitrator gives greatest weight to state revenue and expenditure limits and greater weight to local economic conditions. Essentially, I just want this draft to be repeal the QEO and do nothing further.

The draft number is 0352/3 (BB0219).

THANK YOU!!!

Paul Ziegler  
266-5468



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0352/3

CMH:wlj:rsj

DOA:.....Ziegler, BB0219 – Repeal qualified economic offer

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Today  
please

don't get  
cat

- 1 AN ACT ...; relating to: qualified economic offers under the Municipal  
2 Employment Relations Act.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Current law provides that in reaching a decision, the arbitrator or arbitration panel must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator or arbitration panel is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

This bill eliminates the authorization for the arbitrator or arbitration panel to give any weight to economic conditions in the jurisdiction of the employer or to any state law or directive that places expenditure or revenue limitations on an employer and, instead, requires that the arbitrator or arbitration panel simply considers these as factors.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 111.70 (1) (b) of the statutes is amended to read:

2           111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of  
3           ~~municipal employees who are school district professional employees or of municipal~~  
4           ~~employees who are not school district professional employees~~ that is determined by  
5           the commission to be appropriate for the purpose of collective bargaining.

6           **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

7           **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

8           **SECTION 4.** 111.70 (1) (nc) of the statutes is repealed.

9           **SECTION 5.** 111.70 (4) (cm) 5. of the statutes is amended to read:

10          111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the  
11          other impasse resolution procedures provided in this paragraph, a municipal  
12          employer and labor organization may at any time, as a permissive subject of  
13          bargaining, agree in writing to a dispute settlement procedure, including  
14          authorization for a strike by municipal employees or binding interest arbitration,  
15          which is acceptable to the parties for resolving an impasse over terms of any  
16          collective bargaining agreement under this subchapter. A copy of such agreement  
17          shall be filed by the parties with the commission. If the parties agree to any form of  
18          binding interest arbitration, the arbitrator shall give weight to the factors  
19          enumerated under ~~subds. 7., 7g. and~~ subd. 7r.

20          **SECTION 6.** 111.70 (4) (cm) 5s. of the statutes is repealed.

21          **SECTION 7.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

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9 after receiving a report from its investigator and determining that arbitration should  
10 be commenced, shall issue an order requiring arbitration and immediately submit  
11 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall  
12 alternately strike names until a single name is left, who shall be appointed as  
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14 identity of the arbitrator selected. Upon receipt of such notice, the commission shall  
15 formally appoint the arbitrator and submit to him or her the final offers of the  
16 parties. The final offers shall be considered public documents and shall be available  
17 from the commission. In lieu of a single arbitrator and upon request of both parties,  
18 the commission shall appoint a tripartite arbitration panel consisting of one member  
19 selected by each of the parties and a neutral person designated by the commission  
20 who shall serve as a chairperson. An arbitration panel has the same powers and  
21 duties as provided in this section for any other appointed arbitrator, and all  
22 arbitration decisions by such panel shall be determined by majority vote. In lieu of  
23 selection of the arbitrator by the parties and upon request of both parties, the  
24 commission shall establish a procedure for randomly selecting names of arbitrators.  
25 Under the procedure, the commission shall submit a list of 7 arbitrators to the

1 settlement procedures, if any, established by the parties have been exhausted, and  
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4 name is submitted by the commission for appointment as an arbitrator shall be a  
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6 designated as an arbitration panel chairperson shall be a resident of this state at the  
7 time of designation.

8 **SECTION 9.** 111.70 (4) (cm) 7. of the statutes is repealed.

9 **SECTION 10.** 111.70 (4) (cm) 7g. of the statutes is repealed.

10 **SECTION 11.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

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14 **SECTION 12.** 111.70 (4) (cm) 7r. ie. of the statutes is created to read:

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18 employer.

19 **SECTION 13.** 111.70 (4) (cm) 7r. ir. of the statutes is created to read:

20 111.70 (4) (cm) 7r. ir. Economic conditions in the jurisdiction of the municipal  
21 employer.

22 **SECTION 14.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,  
23 renumbered 111.70 (4) (cm) 8m. and amended to read:

24 111.70 (4) (cm) 8m. ‘Term of agreement; reopening of negotiations.’ Except for  
25 the initial collective bargaining agreement between the parties and, except as the

1 parties otherwise agree, and except as provided in par. (cn), every collective  
2 bargaining agreement covering municipal employees subject to this paragraph ~~other~~  
3 ~~than school district professional employees~~ shall be for a term of 2 years. ~~No, but in~~  
4 no case may a collective bargaining agreement for any collective bargaining unit  
5 consisting of municipal employees ~~subject to this paragraph other than school~~  
6 ~~district professional employees~~ shall be for a term exceeding 3 years. ~~e.~~ No  
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8 term of a collective bargaining agreement, unless both parties agree to such a  
9 provision. The requirement for agreement by both parties does not apply to a  
10 provision for reopening of negotiations with respect to any portion of an agreement  
11 that is declared invalid by a court or administrative agency or rendered invalid by  
12 the enactment of a law or promulgation of a federal regulation.

13 **SECTION 15.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

14 **SECTION 16.** 111.70 (4) (cm) 8p. of the statutes is repealed.

15 **SECTION 17.** 111.70 (4) (cm) 8s. of the statutes is repealed.

16 **SECTION 18.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

17 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective  
18 bargaining unit for the purpose of collective bargaining and shall whenever possible,  
19 unless otherwise required under this subchapter, avoid fragmentation by  
20 maintaining as few collective bargaining units as practicable in keeping with the size  
21 of the total municipal work force. In making such a determination, the commission  
22 may decide whether, in a particular case, the municipal employees in the same or  
23 several departments, divisions, institutions, crafts, professions, or other  
24 occupational groupings constitute a collective bargaining unit. Before making its  
25 determination, the commission may provide an opportunity for the municipal

1 employees concerned to determine, by secret ballot, whether or not they desire to be  
2 established as a separate collective bargaining unit. ~~The commission shall not~~  
3 ~~decide, however, that any group of municipal employees constitutes an appropriate~~  
4 ~~collective bargaining unit if the group includes both municipal employees who are~~  
5 ~~school district professional employees and municipal employees who are not school~~  
6 ~~district professional employees.~~ The commission shall not decide, however, that any  
7 ~~other~~ group of municipal employees constitutes an appropriate collective bargaining  
8 unit if the group includes both professional employees and nonprofessional  
9 employees, unless a majority of the professional employees vote for inclusion in the  
10 unit. The commission shall not decide that any group of municipal employees  
11 constitutes an appropriate collective bargaining unit if the group includes both craft  
12 employees and noncraft employees unless a majority of the craft employees vote for  
13 inclusion in the unit. The commission shall place the professional employees who are  
14 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in  
15 a separate collective bargaining unit from a unit that includes any other professional  
16 employees whenever at least 30% of those professional employees request an election  
17 to be held to determine that issue and a majority of the professional employees at the  
18 charter school who cast votes in the election decide to be represented in a separate  
19 collective bargaining unit. Any vote taken under this subsection shall be by secret  
20 ballot.

21 **SECTION 19.** 118.245 of the statutes is repealed.

22 **SECTION 20.** 119.04 (1) of the statutes is amended to read:

23 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
24 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
25 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to

1 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,  
2 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.291,  
3 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13  
4 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are  
5 applicable to a 1st class city school district and board.

6 **SECTION 9315. Initial applicability; employment relations commission.**

7 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),  
8 (fm), and (nc) and (4) (cm) <sup>5</sup>5s., 6. a. and am., 7., 7g., 7r. (intro.), ie., and ir., 8m. a.,  
9 b., and c., 8p., and 8s. and (d) 2. a. of the statutes first applies to petitions for  
10 arbitration that relate to collective bargaining agreements that cover periods  
11 beginning on or after July 1, 2005, and that are filed under section 111.70 (4) (cm)  
12 6. of the statutes, as affected by this act, on the effective date of this subsection.

13 (END)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0352/4

CMH:wlj:rs

DOA:.....Ziegler, BB0219 - Repeal qualified economic offer

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

- 1     **AN ACT ...; relating to:** qualified economic offers under the Municipal  
2     Employment Relations Act.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 111.70 (1) (b) of the statutes is amended to read:

2           111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of  
3 ~~municipal employees who are school district professional employees or of municipal~~  
4 ~~employees who are not school district professional employees~~ that is determined by  
5 the commission to be appropriate for the purpose of collective bargaining.

6           **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

7           **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

8           **SECTION 4.** 111.70 (1) (nc) of the statutes is repealed.

9           **SECTION 5.** 111.70 (4) (cm) 5s. of the statutes is repealed.

1           **SECTION 6.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

2           111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one  
3 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~  
4 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable  
5 period of negotiation and after mediation by the commission under subd. 3. and other  
6 settlement procedures, if any, established by the parties have been exhausted, and  
7 the parties are deadlocked with respect to any dispute between them over wages,  
8 hours and conditions of employment to be included in a new collective bargaining  
9 agreement, either party, or the parties jointly, may petition the commission, in  
10 writing, to initiate compulsory, final and binding arbitration, as provided in this  
11 paragraph. At the time the petition is filed, the petitioning party shall submit in  
12 writing to the other party and the commission its preliminary final offer containing  
13 its latest proposals on all issues in dispute. Within 14 calendar days after the date  
14 of that submission, the other party shall submit in writing its preliminary final offer  
15 on all disputed issues to the petitioning party and the commission. If a petition is  
16 filed jointly, both parties shall exchange their preliminary final offers in writing and  
17 submit copies to the commission at the time the petition is filed.

18           **SECTION 7.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

19           111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the  
20 commission shall make an investigation, with or without a formal hearing, to  
21 determine whether arbitration should be commenced. If in determining whether an  
22 impasse exists the commission finds that the procedures set forth in this paragraph  
23 have not been complied with and such compliance would tend to result in a  
24 settlement, it may order such compliance before ordering arbitration. The validity  
25 of any arbitration award or collective bargaining agreement shall not be affected by

1 failure to comply with such procedures. Prior to the close of the investigation each  
2 party shall submit in writing to the commission its single final offer containing its  
3 final proposals on all issues in dispute that are subject to interest arbitration under  
4 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~  
5 applies. If a party fails to submit a single, ultimate final offer, the commission shall  
6 close the investigation based on the last written position of the party. ~~The municipal~~  
7 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~  
8 ~~of the investigation.~~ Such final offers may include only mandatory subjects of  
9 bargaining, except that a permissive subject of bargaining may be included by a  
10 party if the other party does not object and shall then be treated as a mandatory  
11 subject. No later than such time, the parties shall also submit to the commission a  
12 stipulation, in writing, with respect to all matters which are agreed upon for  
13 inclusion in the new or amended collective bargaining agreement. The commission,  
14 after receiving a report from its investigator and determining that arbitration should  
15 be commenced, shall issue an order requiring arbitration and immediately submit  
16 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall  
17 alternately strike names until a single name is left, who shall be appointed as  
18 arbitrator. The petitioning party shall notify the commission in writing of the  
19 identity of the arbitrator selected. Upon receipt of such notice, the commission shall  
20 formally appoint the arbitrator and submit to him or her the final offers of the  
21 parties. The final offers shall be considered public documents and shall be available  
22 from the commission. In lieu of a single arbitrator and upon request of both parties,  
23 the commission shall appoint a tripartite arbitration panel consisting of one member  
24 selected by each of the parties and a neutral person designated by the commission  
25 who shall serve as a chairperson. An arbitration panel has the same powers and

1 duties as provided in this section for any other appointed arbitrator, and all  
2 arbitration decisions by such panel shall be determined by majority vote. In lieu of  
3 selection of the arbitrator by the parties and upon request of both parties, the  
4 commission shall establish a procedure for randomly selecting names of arbitrators.  
5 Under the procedure, the commission shall submit a list of 7 arbitrators to the  
6 parties. Each party shall strike one name from the list. From the remaining 5  
7 names, the commission shall randomly appoint an arbitrator. Unless both parties  
8 to an arbitration proceeding otherwise agree in writing, every individual whose  
9 name is submitted by the commission for appointment as an arbitrator shall be a  
10 resident of this state at the time of submission and every individual who is  
11 designated as an arbitration panel chairperson shall be a resident of this state at the  
12 time of designation.

13 **SECTION 8.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,  
14 renumbered 111.70 (4) (cm) 8m. and amended to read:

15 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for  
16 the initial collective bargaining agreement between the parties and, except as the  
17 parties otherwise agree, and except as provided in par. (cn), every collective  
18 bargaining agreement covering municipal employees subject to this paragraph ~~other~~  
19 ~~than school district professional employees~~ shall be for a term of 2 years. ~~No, but in~~  
20 no case may a collective bargaining agreement for any collective bargaining unit  
21 consisting of municipal employees ~~subject to this paragraph other than school~~  
22 ~~district professional employees~~ shall be for a term exceeding 3 years. e. No  
23 arbitration award may contain a provision for reopening of negotiations during the  
24 term of a collective bargaining agreement, unless both parties agree to such a  
25 provision. The requirement for agreement by both parties does not apply to a

1 provision for reopening of negotiations with respect to any portion of an agreement  
2 that is declared invalid by a court or administrative agency or rendered invalid by  
3 the enactment of a law or promulgation of a federal regulation.

4 **SECTION 9.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

5 **SECTION 10.** 111.70 (4) (cm) 8p. of the statutes is repealed.

6 **SECTION 11.** 111.70 (4) (cm) 8s. of the statutes is repealed.

7 **SECTION 12.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

8 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective  
9 bargaining unit for the purpose of collective bargaining and shall whenever possible,  
10 unless otherwise required under this subchapter, avoid fragmentation by  
11 maintaining as few collective bargaining units as practicable in keeping with the size  
12 of the total municipal work force. In making such a determination, the commission  
13 may decide whether, in a particular case, the municipal employees in the same or  
14 several departments, divisions, institutions, crafts, professions, or other  
15 occupational groupings constitute a collective bargaining unit. Before making its  
16 determination, the commission may provide an opportunity for the municipal  
17 employees concerned to determine, by secret ballot, whether or not they desire to be  
18 established as a separate collective bargaining unit. ~~The commission shall not~~  
19 ~~decide, however, that any group of municipal employees constitutes an appropriate~~  
20 ~~collective bargaining unit if the group includes both municipal employees who are~~  
21 ~~school district professional employees and municipal employees who are not school~~  
22 ~~district professional employees.~~ The commission shall not decide, however, that any  
23 other group of municipal employees constitutes an appropriate collective bargaining  
24 unit if the group includes both professional employees and nonprofessional  
25 employees, unless a majority of the professional employees vote for inclusion in the

1 unit. The commission shall not decide that any group of municipal employees  
2 constitutes an appropriate collective bargaining unit if the group includes both craft  
3 employees and noncraft employees unless a majority of the craft employees vote for  
4 inclusion in the unit. The commission shall place the professional employees who are  
5 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in  
6 a separate collective bargaining unit from a unit that includes any other professional  
7 employees whenever at least 30% of those professional employees request an election  
8 to be held to determine that issue and a majority of the professional employees at the  
9 charter school who cast votes in the election decide to be represented in a separate  
10 collective bargaining unit. Any vote taken under this subsection shall be by secret  
11 ballot.

12 **SECTION 13.** 118.245 of the statutes is repealed.

13 **SECTION 14.** 119.04 (1) of the statutes is amended to read:

14 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
15 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
16 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to  
17 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,  
18 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245~~, 118.255, 118.258, 118.291,  
19 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13  
20 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are  
21 applicable to a 1st class city school district and board.

22 **SECTION 9315. Initial applicability; employment relations commission.**

23 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),  
24 (fm), and (nc) and (4) (cm) 5s., 6. a. and am., 8m. a., b., and c., 8p., and 8s. and (d) 2.  
25 a. of the statutes first applies to petitions for arbitration that relate to collective

1 bargaining agreements that cover periods beginning on or after July 1, 2005, and  
2 that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act,  
3 on the effective date of this subsection.

4 (END)